



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

JAMAAL GITTENS,  
Plaintiff,

vs.

STATE OF SOUTH CAROLINA,  
Defendant.

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CIVIL ACTION NO. 3:15-02841-MGL

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ORDER ADOPTING THE REPORT AND RECOMMENDATION, DISMISSING  
PLAINTIFF'S COMPLAINT WITHOUT PREJUDICE AND WITHOUT ISSUANCE AND  
SERVICE OF PROCESS, AND DENYING PLAINTIFF'S MOTION TO VACATE

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This case was filed pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the Court dismiss the Complaint without prejudice and without issuance and service of process. Also pending before the Court is Plaintiff's Motion to Vacate. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on August 28, 2015, and Plaintiff filed his Motion to Vacate on September 3, 2015. To the extent Plaintiff's Motion to Vacate can be construed as an objection to the Report, the Court will treat it as such. The Court has reviewed the objections, but finds them to be without merit. Therefore, it will enter judgment accordingly.

In Plaintiff's objections, he makes no specific objections to the Report. Instead, he generally reiterates claims that the Magistrate Judge has already considered and rejected. Because the Court agrees with the Magistrate Judge's treatment of those issues, it need not discuss them again here. Therefore, it will overrule Plaintiff's objections.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the Complaint is **DISMISSED WITHOUT PREJUDICE** and without issuance and service of process.

To the extent Plaintiff's Motion to Vacate cannot be construed as an objection to the Report, the Court has also reviewed Plaintiff's Motion to Vacate and finds it to be without merit. Therefore, it is the judgment of this Court that Plaintiff's Motion to Vacate is **DENIED**.

**IT IS SO ORDERED.**

Signed this 30th day of September, 2015, in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE

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**NOTICE OF RIGHT TO APPEAL**

Plaintiff is hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.